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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bach H. Le

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EXAMINER

PATEL, HARESH N

ART UNIT

PAPER NUMBER

2154

MAIL DATE

DELIVERY MODE

06/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Claims 1-35 are presented for examination.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, 16-20, 26-31, are drawn to, “receiving multiple (first and second) upgrades, comparing the information about the upgrades at the client, upgrading based on the comparing result, etc”, classified in class 709, subclass 230.
 - II. Claims 9-11, 21-22, 32, are drawn to, “not receiving firmware upgrade, sending request for same firmware upgrade to different server, etc”, classified in class 709, subclass 219.
 - III. Claims 12-14, 23-25, 33-35, are drawn to, “automatically launching a loader program without operator intervention during booting up, read an address of a server from a memory within client, rebooting the client after the firmware is upgraded, etc”, classified in class 719, subclass 321.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I to III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as, usage of receiving multiple (first and second) upgrades, comparing the information about the upgrades at the client, upgrading based on the comparing result, etc, lacking one or more of the particulars of

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inventions II to III. Invention II has separate utility such as, usage of not receiving firmware upgrade, sending request for same firmware upgrade to different server, etc, lacking one or more of the particulars of inventions of I and III. Invention III has separate utility such as, usage of automatically launching a loader program without operator intervention during booting up, read an address of a server from a memory within client, rebooting the client after the firmware is upgraded, etc, lacking one or more of the particulars of inventions of I and II. See MPEP 806.05.

4. These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the two inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) Group I search (claims under Group I) would require use of search class 709, subclass 230 (not required for the inventions II-III).

(b) Group II search (claims under Group II) would require use of search class 709, subclass 219 (not required for the inventions I, III).

(c) Group III search (claims under Group III) would require use of search class 719, subclass 321 (not required for the inventions I, II).

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification as shown above, the extensive search required for one group is not required for the other groups as shown above, and have

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acquired a separate status in the art because of their recognized divergent subject matter as shown above, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and the extensive search required for one group is not required for the other groups, restriction for examination purposes as indicated is proper.

8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

10. A shortened statutory period for response to this action is set to expire 0 (zero) months and 30 (thirty) days from the mail date of this letter. Failure to respond within the period for

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response will result in ABANDONMENT of the application (see 35 U.S.C. 133, MPEP 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Haresh N. Patel/

Primary Examiner, Art Unit 2154

5/31/2008